

Mac A. Fleming
President

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Secretary-Treasurer



Brotherhood of Maintenance of Way Employees

Affiliated with the A.F.L.-C.I.O. and C.L.C

February 8, 2002
(Electronic Submission)

DOT Docket Management Facility
Room PL-401 (Plaza Level)
400 Seventh Street, S.W.
Washington, DC 20590

RE: Docket No. FRA-2001-8728, Notice No. 1

Dear Sir or Madam:

The Brotherhood of Maintenance of Way Employees (BMWWE), a railroad labor union representing 50,000 roadway workers in the United States and Canada, submits the following comments in support of the Interim Final Rule requiring all dispatching of railroad operations that occur in the United States to be performed in the United States.

BMWWE is the duly accredited representative for approximately 35,000 roadway workers employed on railroad carriers in the United States. These workers, in performance of their railroad track

and bridge maintenance and inspection functions, are required to coordinate their activities with the train dispatch center in order to secure track occupancy authorities and establish protection from trains and other on-track equipment through the issuance of work limits. Establishment of track occupancy authorities and work limits for roadway workers requires precise communication of information between the train dispatcher or control operator, the roadway worker in charge, and the crews of affected trains. By virtue of their authority to control train movements on a segment of track, a train dispatcher or control operator provides track occupancy authority and work limit protection to roadway workers by withholding all other movement authority within a clearly defined section of track.

The lives of roadway workers depend upon precise and accurate communication with the train dispatcher or control operator responsible for providing protection through the issuance of occupancy authorities and work limits. Besides the issuance of occupancy authorities and protection of working limits, the train dispatcher also often functions as an intermediary between trains and roadway workers to convey vital information. Geographical barriers, language barriers, different or unfamiliar railroad terminology or parlance, units of measure, and even verbal accents can contribute to misunderstanding or miscommunication of vital information. Additionally, railroad and national security concerns are also best served under the provisions of §241. Thus, we strongly support the Interim Final Rule requiring that dispatching of U.S. railroad operations be performed in the United States.

A requirement for U.S. based dispatching operations will assure continued FRA oversight of train dispatch operations and the continued applicability of FRA and DOT safety regulations currently governing train dispatchers, including but not limited to, Hours of Service (49 CFR part 228), Drug and Alcohol Testing (49 CFR part 219), and Operating Rules and Efficiency Testing (49 CFR part 217). Train Dispatchers must also be qualified to perform their functions related to roadway worker safety and are

subject to the training requirements of 49 CFR part 214.343(c).

With regard to the “exceptions” in the Interim Final Rule, we believe that a line sale or abandonment and subsequent restart of any of the four domestic operations currently dispatched from Canada should negate the grandfathering provision of the rule currently applicable to such operation. We also believe that waivers to commence additional extraterritorial dispatching should not be considered and further exceptions to U.S. based train dispatching should not be allowed.

For the reasons stated above, and in the interest of railroad safety and national security, we support the requirement for U.S. based dispatching operations. We congratulate FRA for its pro-active initiative in publishing the Interim Final Rule and appreciate this opportunity to respond to the agency’s request for comments.

Respectfully,

Mac A. Fleming (signed)

President